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AUG 29 2011

UNITED STATES PATENT AND TRADEMARK OFFICE

Board of Patent Appeals and Interferences

Case Number: Redacted by Examiner Palabrica

For: METHOD TO CONTROL REACTIONS
INVOLVING ISOTOPIC FUEL
WITHIN A MATERIAL USING
ORTHOGONAL ELECTRIC-FIELDS

Serial no. 09/ 748,691

Filed: 12/26/2000

This is a division of Serial no. 07/ 760,970

Filed: 09/17/1991

Group Art Unit: 3641

Examiner: Palabrica, R.J.

August 29, 2011

Board of Patent Appeals and Interferences

Box 1450

Alexandria, VA 22313-1450

FAX 571 273 0052

**MOTION FOR SANCTIONS AGAINST
EXAMINER RICARDO PALABRICA**

1. This is a Motion for Sanctions against Examiner Ricardo Palabrica and his supervisor, Jack Keith, for attempting to functionally remove Evidence again from the above-entitled file folder of the above-entitled patent application.

2. On August 27, 2011, the Appellant received a Communication from the Office [Exhibit "A", attached, hereinafter "Communication" or "Notice"] dated August 23, 2011.

3. This Motion is reasonable based upon the reasons stated below, and the facts discussed in the Declarations supporting this Motion.

4. In the discussion below, reference is made to Declaration of Dr. Mitchell Swartz (hereinafter called the "Swartz Declaration") dated August 29, 2011, and to the Declaration of Gayle Verner (hereinafter called the "Verner Declaration") dated August 29, 2011.

5. The Office Communication disingenuously states:

"1. The attached IDS, which was included in the 3/28/03 Amendment after final, was not considered because said Amendment was not entered into the record of prosecution of this application. See 4/15/03 Advisory Action."

THE TRUTH - FORMS AND PAPERS WERE SUBMITTED 11/2002

6. Despite the misleading, fabricated statement above, Forms 1440 and packets of relevant peer-reviewed references were sent in November 2002 before the FINAL. The receipt by the US Patent Office of said packages of evidence consisting of references accompanied by Forms 1440 is fully documented indelibly by the date stamp from the mail room of the U.S. patent office (Exhibit "B").

7. Also attached to this Motion, as Exhibit "C", is the entire package which was sent by Appellant (then Applicant) to the US Patent Office in November 2002, excluding the references which were sent to the Office, over and over and over.

8. As the Swartz Declaration states:

"The Office Communication wrongly suggests that the Forms 1440 and peer-reviewed references were only sent "in the 3/28/03 Amendment after final. In fact, Forms 1440 and peer-reviewed references were submitted November 4, 2002. I included a postal card for the date stamp from the mail room of the U.S. patent office -- which they stamped and returned to me (Exhibit "B")."

9. As the Verner Declaration states:

"I have read the record of the above-entitled application including the recent Communication from the Office. The Examiner's contention that applicant/appellant did not mail Forms 1440 and submit references before FINAL is not true. I have examined Applicant, Dr. Mitchell Swartz's (personal file copy of his) documents which was dated, submitted, and sent to the Office in November, 2002. I can honestly testify that Forms 1440 were indeed included in this November, 2002 mailing to the Office.

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I have examined the postal card from the USPTO, whose stamped date also confirms that those materials reached the Office in November, 2002."

10. It is apparent that said Communication from the Office, sent through the US mail to the Commonwealth of Massachusetts, contains yet another serious misstatement fabricated to damage the Appellant's case before the Board of Patent Appeals.

11. There is the appearance of impropriety. A false statement in a federal document has been sent through the US mail to interfere with US Court case. It is clear that this is another attempt to ignore, obstruct, or functionally destroy Applicant's unrebutted timely-submitted Declarations, and peer-reviewed publications, including those published by the American Nuclear Society.

12. As the Swartz Declaration states:

"This is another attempt to functionally eliminate or remove the Declarations and peer-reviewed publications, including those published by the American Nuclear Society, which I have timely-submitted."

13. As the Verner Declaration states:

"It is my observation that the U.S. Patent Office is behaving mischievously regarding Evidence sent to them by Dr. Swartz."

14. It is patently clear that said Office Communication is unfair and laden with an erroneous statement and fabricated inaccuracy designed to obstruct justice, by denying Evidence and a fair Trial.

15. The Examiner, and his Supervisor, are again exposed as disingenuous to Board of Patent Appeals. What is most egregious is that this is yet another false statement, and yet another incidence of attempted removal of Evidence. Why is most odious is that this false statement on a federal document has been made to coverup past false statements, past removal/ignoring Evidence, and continual obstruction of justice. This is covered in the recent Reply Brief -- and the Board is referred to those examples.

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16. The U.S. Supreme Court has ruled that any pro se litigant is entitled to less stringent standards [U.S. Rep volume 404, pages 520-521 (72)].

WHEREFORE, Appellant requests immediate Sanctions against Examiner and his Supervisor in the amount of \$500,000 for their bias and pattern of conduct and attempted functional removal of Evidence from Appellant's case. This amount will be split with the American Cancer Society and a scientific Integrity Group.

The Appellant also requests an internal investigation of the Examiner and his Supervisors because their pattern of regulatory abuse demonstrates violations of Office's rules, the rules of civil procedure, the US Consitution, and are apparent violations of Intellectual Property Rights, Title 18 U.S.C., Section 1831, Title 18 U.S.C., SECTION 1832, and possibly the Economic Espionage Act (EEA) of 1996, and other statutes and law.

Respectfully submitted,



Mitchell Swartz, Appellant
Post Office Box 81135
Wellesley Hills, Mass. 02481

August 29, 2011

CERTIFICATE OF MAILING [37 CFR 1.8(a)]

August 29, 2011

To Whom it Does Concern:

I hereby certify that this correspondence will be deposited with the United States Postal Service by First Class Mail, postage prepaid, in an envelope addressed to
The Commissioner for Patents
Alexandria, VA 22313-14501

on the date below.

Thank you.

Sincerely,



August 29, 2011

M.R. Swartz